

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

2007 JUN 22 AM 8:10
CLERK OF COURT
CLEVELAND, OHIO

LUIS LOPEZ RODRIGUEZ,

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CASE NO. 1: 04 CV 667

Petitioner,

)

JUDGE DONALD C. NUGENT

v.

)

MEMORANDUM OPINION
AND ORDER

JULIUS WILSON, Warden,

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Respondent.

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This matter comes before the Court upon the Report and Recommendation of Magistrate Judge James S. Gallas. The Report and Recommendation (ECF # 19) is ADOPTED by this Court, and Petitioner's motion to vacate, set aside, or correct the sentence pursuant to 28 U.S.C. § 2254 (ECF # 1) is DENIED.


Petitioner filed this motion to vacate, set aside, or correct the sentence pursuant to 28 U.S.C. § 2254 on April 8, 2004. Pursuant to Local Rule 72.2, this matter was referred to Magistrate Judge Gallas for the preparation of a report and recommendation. On May 24, 2007, Magistrate Judge Gallas recommended that the Court dismiss the motion due to untimeliness. Petitioner has not filed any objections to the Report and Recommendation.

The Court has reviewed the Report and Recommendation *de novo*. See *Thomas v. Arn*, 474 U.S. 140 (1985). The Court finds the Report and Recommendation to be well-supported and correct. Therefore, the Report and Recommendation (ECF # 19) is ADOPTED in its entirety. Petitioner's motion to vacate, set aside, or correct the sentence is DENIED.

Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate

of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: June 21, 2007